

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

SB 1667 - HB 1718

March 12, 2018

SUMMARY OF BILL: Authorizes a person that has been convicted of a nonviolent felony, including a felony drug offense, to possess a firearm if the person has had the conviction expunged or has had his or her rights of citizenship fully restored.

Makes defenses available to the offense of unlawful possession of a firearm available to persons who are prohibited from possessing a firearm because of a prior felony conviction if that person has had their convictions expunged, or had their rights of citizenship fully restored in Tennessee, another state, or under federal law.

Enhances the unlawful possession of a handgun by a felon to a Class C felony.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures – \$51,100 Incarceration*

Assumptions:

- Tennessee Code Annotated § 39-17-1307(b) prohibits any person convicted of a felony involving the use of force, violence, or a deadly weapon or a felony drug offense from possessing a firearm. Tennessee Code Annotated § 39-17-1307(c) prohibits any person convicted of a felony, other than those in subsection (b), from possessing a handgun.
- Thus, if someone is convicted of a felony, but that felony is not a drug felony and did not involve the use of force, violence or a deadly weapon, then the person may not possess a handgun, but may possess other types of firearms.
- The proposed legislation prohibits a person that has been convicted of a nonviolent felony from possessing any type of firearm unless the person has had the conviction expunged or has had the person's rights of citizenship fully restored. In other words, a person convicted of any felony, which is not a felony involving the use of force, violence, or a deadly weapon, is prohibited from possessing any firearm, not just a handgun, unless the person has had their rights of citizenship restored.
- The proposed legislation makes defenses available to the offense of unlawful possession of a firearm available to persons who are prohibited from possessing a firearm because of a prior felony conviction if that person has had their convictions expunged, or had their rights of citizenship fully restored in Tennessee, another state, or under federal law.

- The proposed legislation also enhances the unlawful carrying of a firearm by a felon from a class E felony to a class C felony, resulting in an increase in state incarceration costs.
- Statistics from the Department of Correction (DOC) show an average of .6 admissions per year over the last ten years under Tenn. Code Ann. § 39-17-1307(c) for unlawful possession of a firearm. It is assumed that 100 percent (.6 x 1.0 = 1.2), or one admission will be enhanced under the proposed legislation.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years.
- Population growth and recidivism will not affect these admissions.
- The average time served for a class E felony is 1.31 years. The average time served for a class C felony is 3.28 years. There will be an increase in the average time served of 1.97 years (3.28 – 1.31) for offenders convicted of a class C felony under the proposed legislation.
- According to the DOC, the average operating cost per offender per day for calendar year 2018 is \$71.08.
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on one offender serving an additional 1.97 years (719.54 days) at a cost of \$51,145 (\$71.08 x 719.54 days) per offender.
- Any impact to the caseloads of the courts, public defenders, and district attorneys can be accommodated within their existing resources.
- Tennessee Code Annotated § 39-17-1351 authorizes qualifying Tennessee residents to apply for a handgun carry permit.
- Tennessee Code Annotated § 39-17-1361(b) prohibits a person from obtaining a handgun carry permit if the person is prohibited from possessing a firearm under Tenn. Code Ann. § 39-17-1307(b).
- The proposed legislation authorizes a person convicted of a non-violent felony to possess a firearm if the person has had their conviction expunged or had their rights of citizenship fully restored.
- Tennessee Code Annotated § 40-32-101 authorizes expungement of 38 class E felony offenses, including certain drug offenses.
- Thus, while the proposed legislation would authorize someone convicted of a non-violent felony, including a drug offense, to possess a firearm, and, therefore, possibly obtain a handgun carry permit, most felonies are not eligible for expungement. Further, Tenn. Code Ann. § 39-17-1351(j)(3) prohibits a person convicted of a violent felony or a drug felony involving a Schedule I, II, III, IV, or V controlled substance from obtaining a handgun carry permit, even if the person has had their rights of citizenship fully restored.
- For the above reasons, the proposed legislation will not significantly increase handgun carry permit applications or handgun permit fee revenue.

**Tennessee Code Annotated § 9-4-210 requires an appropriation from recurring revenues for the estimated operation cost of any law enacted after July 1, 1986 that results in a net increase in periods of imprisonment in state facilities. The amount appropriated shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in dark ink that reads "Krista M. Lee". The signature is written in a cursive, flowing style.

Krista M. Lee, Executive Director

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